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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of: )  
)  
Amendment of Section 73.622(b), )  
Table of Allotments, )  
Digital Television Broadcast Stations. )  
(Albuquerque, New Mexico) )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MM Docket No. 01-160 /  
RM-10159

To: Chief, Video Services Division

COMMENTS IN SUPPORT

ACME Television Licenses of New Mexico, LLC ("ACME") by its attorneys, hereby submits these comments in support of the proposal to amend the Table of Allotments for Digital Television Broadcast Stations by changing the DTV channel allotment for station KASY-DT, Albuquerque, New Mexico, from DTV Channel 51 to DTV Channel 45. In support, ACME shows the following:

1. On May 2, 2001, ACME filed a "Petition for Rulemaking" requesting that the Commission institute a rulemaking proceeding for the purpose of amending the DTV Table of Allotments to change the DTV channel allotment for station KASY-DT, Albuquerque, New Mexico, from DTV Channel 51 to DTV Channel 45. On July 27, 2001, the Video Services Division ("Division") issued its Notice of Proposed Rule Making in this Docket, *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Albuquerque, New Mexico)*, DA 01-1770 (VSD, adopted July 24, 2001) ("NPRM"). The Division concluded that ACME's proposal to change the DTV channel allotment for station KASY-DT "warrants consideration." The Division proposed to substitute DTV Channel 45 for DTV Channel 51 for station KASY-DT at Albuquerque

with DTV power of 245 kW and antenna HAAT of 1287 meters. The Division invited comment on the proposed amendment, and set September 17, 2001, as the deadline for filing comments.

2. ACME is the licensee of television station, KASY-TV, Albuquerque, New Mexico, which currently operates on NTSC Channel 50. The Commission specified DTV Channel 51 for use by KASY-TV as its paired DTV allotment.<sup>1</sup> The Commission has issued to ACME the Construction Permit BPCDT-19991029ACG, for DTV Channel 51 operations.

3. ACME proposed to substitute DTV Channel 45 for DTV Channel 51 at Albuquerque. In the *NPRM*, the Division acknowledged that adoption of the proposed channel change would permit ACME to co-locate its DTV and analog facilities and to share the same antenna. The Division believes that ACME's proposal would serve the public interest through its efficient and cost-effective use of the broadcast spectrum.

4. Additionally, in the *NPRM*, the Division stated that ACME's proposed allotment is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under 47 C.F.R. § 73.623(c)(2).

5. ACME is prepared to tender at the earliest opportunity a Form 301 application for modification of construction permit to specify operation on Channel 45 at the following geographic coordinates: 35° 12' 48" North; 106 ° 27' 00" West with the

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<sup>1</sup> The DTV Channel 51 allotment is designated with the letter "c" and is subject to pilot carrier frequency restrictions, pursuant to Section 73.622(g)(1) of the Commission's rules because the DTV station would operate on a channel above the analog TV station.

equivalent of maximum effective radiated power of 245kw at a height above average terrain of 1287 meters and electrical beam tilt of 1.0 degree.

6. If the Commission adopts and releases a Report and Order amending the DTV Table of Allotments consistent with ACME's petition for rulemaking and the NPRM, then ACME will immediately tender an application for modification of its digital television construction permit. Upon the grant of its application, ACME will immediately construct a station on DTV Channel 45 (in lieu of Channel 51) for use by KASY-DT.

WHEREFORE, ACME requests that the Commission amend the DTV Table of Allotments to allot and assign DTV Channel 45 to Albuquerque, New Mexico (in lieu of Channel 51) for use by KASY-DT.

Respectfully submitted,

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September 6, 2001